

## COVER SHEET

FILED 06/24/2022 2:08 PM  
CC-54-2022-C-143  
Wood County Circuit Clerk  
Celeste Ridgway

## GENERAL INFORMATION

IN THE CIRCUIT COURT OF WOOD COUNTY WEST VIRGINIA

**John Louden v. KROGER LIMITED PARTNERSHIP I****First Plaintiff:**

Business  Individual  
 Government  Other

**First Defendant:**

Business  Individual  
 Government  Other

**Judge:**

Robert A. Waters

## COMPLAINT INFORMATION

**Case Type:** Civil**Complaint Type:** Medical Malpractice

**Origin:**  Initial Filing  Appeal from Municipal Court  Appeal from Magistrate Court

**Jury Trial Requested:**  Yes  No **Case will be ready for trial by:** 1/15/2024

**Mediation Requested:**  Yes  No

**Substantial Hardship Requested:**  Yes  No

Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- Wheelchair accessible hearing room and other facilities
- Interpreter or other auxiliary aid for the hearing impaired
- Reader or other auxiliary aid for the visually impaired
- Spokesperson or other auxiliary aid for the speech impaired
- Other: \_\_\_\_\_

I am proceeding without an attorney

I have an attorney: Brian Headley, 297 SEVEN FARMS DR STE 302, DANIEL ISLAND, SC 29492

## SERVED PARTIES

**Name:** KROGER LIMITED PARTNERSHIP I  
**Address:** c/o CORPORATION SERVICE COMPANY 209 WEST WASHINGTON STREET, charleston WV 25302  
**Days to Answer:** 30      **Type of Service:** Secretary of State - Certified - Including Copy Fee.

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## IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

**JOHN LOUDEN AND MARIA  
LOUDEN, on behalf of their minor  
son, R [REDACTED] L [REDACTED],**

**Plaintiffs,**

**Civil Action No.: \_\_\_\_\_**

**v.**

**KROGER LIMITED PARTNERSHIP I,**

**Defendant.**

**COMPLAINT**

Now come the Plaintiffs, John Louden and Maria Louden, on behalf of their minor son, R [REDACTED] L [REDACTED], by counsel, Brian J. Headley, Esquire, and Headley Ballard LLC, and files the following action stemming from the Defendant's negligence that resulted in serious harm and injury to R [REDACTED]. In support thereof, the Plaintiffs aver as follows:

**PARTIES**

1. Plaintiffs John Louden ("John") and Maria Louden ("Maria") are married adult individuals who reside at 158 Delta Place in Davisville, Wood County, West Virginia.
2. Plaintiff R [REDACTED] L [REDACTED] ("R [REDACTED] L [REDACTED]") is John and Maria's fifteen-year-old son.
3. Defendant Kroger Limited Partnership I ("Kroger") is an Ohio-based partnership that provides food, pharmacy, health, and other related products and services to its customers.
4. Kroger maintains a principal office at 1014 Vine Street in Cincinnati, Ohio.
5. Based upon information and belief, Kroger owns, operates, and maintains stores in West Virginia.
6. Specifically, Kroger owns, operates, and maintains Store Number 753 ("Store 753") at 930 Division Street in Parkersburg, Wood County, West Virginia.

7. Store 753 offers pharmacy services to its customers, including vaccines.
8. At all times relevant to this Complaint, Kroger and Store 753 facilitated and provided medical care to R█ through its agents, servants, and/or employees.
9. This court has jurisdiction over these claims as the cause of action arose through negligent actions committed in Wood County, West Virginia.

## FACTS

10. On the morning of June 24, 2021, Maria took R█ to Store 753 to receive the second dose of his Pfizer Covid-19 (the “Vaccine”) vaccination.
11. R█ was taken into a private room to receive the second dose of the Vaccine.
12. Maria was not present when R█ was administered the vaccine.
13. Upon information and belief, the vaccine was administered by an unlicensed, unmonitored student-employee of Kroger.
14. On the afternoon of June 24, 2021, Maria received a phone call from Landon Herrick, RPh (“Mr. Herrick”), the pharmacist at Kroger 753.
15. Mr. Herrick informed Maria that R█ had been erroneously given an improper dosage of the Vaccine.
16. According to the Centers for Disease Control and Prevention, the recommended dose of the Vaccine is 0.3 mL.
17. Mr. Herrick told Maria that the Vaccine had not been diluted, and that R█ had received a dosage more than five times the recommended amount.
18. Mr. Herrick also told Maria that a student had administered R█’s vaccine, and that the student had been unsupervised when administering the Vaccine.

19. Upon information and belief, the unsupervised student administered at least three improper vaccine doses to patients.

20. R█'s parents were frightened by the news that R█ had been give such a large, undiluted dosage of the Vaccine.

21. Over the following two days, R█ suffered from side effects of the overdose, including high fever, severe nausea, headaches, body aches, and dizziness.

22. R█'s parents monitored his condition closely and were concerned about both the short-term and long-term effects of receiving such a large dosage.

23. R█ continued to suffer from fatigue, frequent headaches, and a general "brain fogginess."

24. R█ was evaluated by his pediatrician following the overdose.

25. R█'s pediatrician was unable to offer any solution but encouraged his parents to continue monitoring him closely.

26. Since receiving the Vaccine overdose, R█ cognitive abilities have been noticeably affected, and he now struggles daily with forgetfulness and difficulty focusing on tasks.

27. R█'s parents continue to monitor him closely and are still concerned about the long-term effects that the vaccine may have on their son and how it may affect his future.

#### **THE COUNT: MEDICAL NEGLIGENCE**

28. Plaintiffs incorporate Paragraphs 1 through 27 as though fully set forth herein.

29. Kroger and its agents, servants, and/or employees at Store 753 owed R█ a duty to exercise appropriate medical care and caution and to treat him in a manner consistent with the applicable standard of care.

30. Kroger and its agents, servants, and/or employees at Store 753 breached the standard of care by administering a vaccine dose that far exceeded the CDC-recommended dosage.

31. Due to the Defendant's negligence, R █████ suffered the consequences described herein.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray that this Honorable Court award them damages in excess of the jurisdictional minimums of this court and in an amount sufficient to compensate them fully for their injuries and damages as set forth herein, including an award of attorney's fees, costs, expenses, and other relief as the court deems appropriate.

**THE PLAINTIFFS HEREBY DEMAND A TRIAL BY JURY.**

Respectfully submitted,

By: s/ Brian J. Headley  
Brian J. Headley, Esquire  
W. Va. I.D. No. 9667  
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